IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 160 OF 2006

PRAMOD BALCHANDRA WALKE,ASSAGAO,BARDEZ GOA. ....Applicant

Versus

STATE ....Respondent

Mr. Arun Bras De Sa, Advocate for the Applicant.
Mr. S. N. Sardessai, Public Prosecutor for the State.

Coram:- N. A. BRITTO, J.

Date:- 6th April, 2006

P.C.

Heard Shri Arun Bras D' Sa, the learned Counsel on behalf of the applicant and Shri Sardessai, the learned P.P. on behalf of the respondent.

2. The examination of the accused, as a defence witness, commenced on 18.01.2005 before the learned J.M.F.C., Mapusa and was adjourned. One does not know whether it was adjourned at the request of the accused or for want of time or for any other reason. The case could not be taken up on 08.02.2005 and again on 15.03.2005, as there was no Presiding Officer available. On 12.04.2005, when the case was again taken up, the accused was not ready with his documents/certified copies, as a result of which, the case had to be adjourned to 25.04.2005. True, the learned J.M.F.C. in adjourning the case on 12.04.2005, told the accused that it would be last and final opportunity for the accused to complete his defence evidence. When the case came up for hearing on 25.04.2005, the accused was present but his Advocate was absent and, as a result, the learned J.M.F.C. proceeded to close the entire case of defence. It is the submission of the accused, that even on 25.04.2005, the said documents were unavailable as they were filed in some other proceedings.

3. In my view, the accused has not been given adequate opportunity to prove his defence and the learned J.M.F.C. has drastically proceeded to close the entire defence case and not only the examination of the accused which had commenced on 18.01.2005. The interest of justice do require that the accused be given an opportunity not only to complete his evidence but other defence evidence as he may wish to produce. Consequently, the Order dated 17.01.2006, is hereby set aside and the learned J.M.F.C. is hereby directed to proceed from the stage at which the case was on 18.01.2005 so as to enable the accused not only to produce the documents but also lead the evidence of other witnesses, in case required by him. It is hoped that the accused will not take this opportunity to obtain further adjournments unncessarily.

Petition is allowed on above terms, with no order as to costs.

N. A. BRITTO, J.

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